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GOOGLE LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: REQUEST FOR JUDICIAL
ASSISTANCE FROM THE TW,

Case No. 23-mc-80084-DMR

**NON-PARTY GOOGLE LLC'S
RESPONSE TO ORDER TO FILE
MAGISTRATE JUDGE CONSENT OR
DECLINATION FORM**

Judge: Donna M. Ryu

Pursuant to the Court's Order dated March 23, 2023 (Dkt. 4), Non-Party Google LLC ("Google") responds to Applicant United States's ("Applicant") Application Pursuant to 28 U.S.C. § 1782 for the Taking of Discovery for Use in a Foreign Proceeding ("Application").

Google understands that Applicant is seeking authorization to serve a subpoena on Google in connection with litigation in Mexico. Google takes no position on the issuance of the subpoena, but it reserves all rights and objections with respect to the subpoena if it does issue. *See, e.g., CPC Pat. Techs. Pty Ltd. v. Apple, Inc.*, 34 F.4th 801, 809 (9th Cir. 2022) ("CPC") (recognizing that there may be subsequent motion to quash proceedings following the grant of a Section 1782 application); *In re Nagatsuki Ass'n*, No. 20-MC-80030-SVK, 2020 WL 887890, at *2 (N.D. Cal.

Feb. 24, 2020) (“orders granting § 1782 applications typically only provide that discovery is ‘authorized,’ and thus the opposing party may still raise objections and exercise its due process rights by challenging the discovery after it is issued”) (quotation omitted).

Indeed, even where non-parties have been served with Section 1782 applications, courts routinely recognize that non-parties may raise challenges to subpoenas *after* their issuance. *See, e.g., In re Ex Parte Application of Kakedzuka Mfg. Co., Ltd.*, Case No. 22-mc-80133-NC, Dkt. 11 (N.D. Cal. July 29, 2022) (granting Section 1782 application with consent of the parties but allowing provider and account holder a period of time to move to quash the subpoena following service); *In re Ex Parte Application of Team Co., Ltd.*, Case No. 22-mc-80183-VKD, Dkt. 14 (N.D. Cal. Sept. 7, 2022) (same); *In re Ex Parte Application of Medical Corporation Seishinkai*, Case No. 22-mc-80136-NC, Dkt. 12 (N.D. Cal. Sept. 8, 2022) (same).

Therefore, if the Court decides to grant the Application and allows the subpoena to issue, Google respectfully requests that the Court also order the following:

1. Within 10 calendar days of service of the subpoena and the order, Google may notify the account holders of the subpoena and order; and
2. Google and/or the account holder(s) shall have 21 days from the date of the notice to file a motion contesting the subpoena.

Should the subpoena issue, Google intends to meet and confer regarding the requests and, if necessary, seek intervention from the Court.

Dated: May 19, 2023

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By: s/ Julie E. Schwartz

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